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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY IV

Attn: Saul Shaprio
Mass Media Bureau
Federal Communications Commission
1919 M Street. N.W. Room 314
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

COMMENTS FOR THE RECORD DOCKET 87-268

These comments are presented by Stephen Donnell, Consultant and Lobbyist for the Blue Mountain Translator District which is the Public Corporation that grew out of the Blue Mountain Translator Association.

In the late 1960's and early 1970's I was president of the Blue Mountain Translator Association a corporation established in the early 1955's for the purpose of bringing TV into Eastern Oregon. In the early 1970's the Associating requested that I lobby the Oregon legislature to adopt the first enabling legislation to establish TV District(s), (TD) under the Oregon law as a "not for profit" public corporation(s). These efforts were successful. [Copy of present law attached. See Att. 1]

I am in receipt of the Docket material. Careful reading of the Chair and Commissioners, Quello, Barrett, Ness and Chong statements show that the FCC Commission has given extensive thought and consideration to the aspect of what will happen when Digital TV is an "over the air" reality.

I. First: Observations on Commissioner's comments.

From the time of the 1934 FCC act, broadcast technology has surged forward with ever increasing technological advances. The latest advance is "digital technology" (dt). This technology allows for better images on the viewers screen and most importantly the ability to add additional broadcasting by allowing additional stations on the air by splitting presently assigned frequencies into smaller segments.

Commissioner Ness, addresses the most salient issue (in this commentator's opinion, p.132519). "Broadcasting is the only video delivery system that is offered free of charge, universally available and, therefore, available to all, young old, rich or poor. Advanced television assures the future viability of free over-the-air television.

The American public also will continue to benefit from the public interest obligations required of broadcasters by law. These

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mandates include airing educational and informational children's programming, making time available for political debate, and preventing of indecent or obscene programming. In return, broadcasters are not charged for use of the public's airways. With multiple channels and vastly improved quality through digitization, broadcasters will have ample resources to better fulfill these public obligations. The Commission and the public should demand no less." (Emphasis added)

Commissioner Quell comments: "In structuring this new digital world, we must be ever-vigilant against - - (copy of comments does not include additional words) to free, over-the air broadcasting posed by any "social contract" between broadcasters - - the Federal government." (p.139512)

Chairman Hundt: "At this watershed, the commission has an obligation to review all of the major policy issues that the transition to digital broadcasting presents." (p.132540) (Emphasis added)

II. Second, In light of Chairman Hundt's comment, the following discussion about a present commission policy that directly affects the ability of Translator Districts/Associations (TD) to achieve proper financing is in order.

Mr. Speckhart, (Blue Mountain Translator District) (BMTD) Technical Director is also sending comments for the record on these proceedings. They are attached herewith.

His comments address Cable Interests not sharing the import costs for signals arising from the "over the air efforts" of BMTD. The signals are then used by "Cable" for "for profit enterprises". This situation came about because of rule making actions of the FCC. Please see Att. 2 and 3.

DISCUSSION OF THE ISSUE OF "CABLE, etc. NOT PAYING FOR TD SIGNALS.

Quoting (Att. 2) Chairman Hundt: "Under Section 325 of the Communications Act of 1934, as amended by the Cable Television Consumer Protection and Competition Act of 1992, commercial television stations including translators, generally may not be carried by cable television systems without the stations having granted a "retransmission consent." This requirement that the cable operator obtain the translator station's consent is intended to be a mechanism whereby stations may obtain appropriate compensation from the cable system operator. Unless the Blue Mountain Translator District translator station is a noncommercial station, this provision would appear to provide one means of addressing the concerns raised in Mr. Spechart's correspondence." - - - If the translator station in question is a noncommercial station, a change

in this provision of the law would appear to be required to address Mr. Speckhart's concern."

"It is not clear that there is anything in Section 614 of the Act (47 U.S.C. Section 534) or in the Federal Communications Commissions April 26, 1977 to Mr. John R. Wilner that would preclude a translator station under state law from collecting fees from cable subscribers. - - -". (See Att. 4)

ANALYSIS

First consideration, if the TD operates as a "for profit entity" it comes under the present interpretation of the law and can charge the cable, or other "for profit entity", for use of the imported signal.

Only when the TD is "not for profit" can such a charge not be made.

This is a nonsensical situation. If a profit is to be made, collect from cable. If the district supplies over the air signals and is incorporated as a "non profit public corporation" they can not charge.

Translator Districts, formed under state's "not for profit law" are formed to bring over the air signals to areas that are not served by other means. In Oregon, cable interests felt that little or no profit would be gained, if the rural areas had to be or were served. The BMTD was formed so that such properties would be served by "over the air signals" providing "as much as possible" a free service. This effort is in the spirit of quoted Commissioner's comments.

Further, TD's are not "stations" in the practical sense. "Stations" originate programs, and accept advertising. TD's for the most part do not. TD's must also gain rebroadcast permission from the commercial stations. At present it is not clear if the "not for profit" TD's are fully exempt from the copyright laws when rebroadcasting commercial stations on a full time basis. BMTD has received permission to rebroadcast the stations it carries.

Rebroadcast permission is granted so that the commercial station can increase the area wherein their signal goes. This allows the commercial station to gain additional advertising revenue, which in the final analysis pays for present "free" TV.

FCC ABILITY TO CORRECT THE PRESENT PROBLEM

The ability of "not for profit TD's" to charge or not to charge "cable" for signals they import arises from the FCC rules, which are an interpretation of Federal Law. The FCC has the authority to correct the present problem.

Chairman Hundt's letter [supra Att. 2] cites Section 614 of the Act (47 U.S.C. Section 534.

The FCC rules interpretation of this section of the Act must be rewritten for Translator Districts to survive.

A. Even though "not for profit" translators are considered to be outside the "copyright law" the rules must be rewritten so that the "not for profit" translators can recoup the "fair share cost" of bringing in the signal used by cable and other "for profit" interests. After all, the cable people are making a profit from the translators that are supported by either tax dollars or service fees paid by district patrons.

B. The rules require change in two areas. *Taking not for profit translator districts out of the same category as Educational Stations, and making a separate category that gives them the same rights as commercial stations vis rebroadcast or use of the TD signals. *Recognizing that TD's in a sense are an extension of the commercial station, and allowing the commercial station to include the TD area in the base contour for revenue purposes.

DISCUSSION ON SUGGESTED RULE CHANGE REQUEST

a. Whenever cable takes signals off the air that are present only through the efforts of a not for profit TD and sells them for a profit, the TD loses viewers to cable or other providers. At the same time the TD can not make up the loss of revenue by charging the "fair cost" of bringing in the signal to the "for profit" cable users.

Loss of viewers equates to lower revenue. Lower revenue makes the proportionate cost to all other TD users go up. When the TD operational costs go above revenue, the TD would have to cease operation. (See Director Speckhart comment letter attached.)

When this happens the rural people would have to go to other commercial "for profit" means to have TV; ie. satellite or other technology. This situation would negate the stated commissioner's objective to have "free" over the air TV for such people. Rules must be adopted that make clear that TD's which only rebroadcast commercial stations signals are basically "an extension" of the station and have the same "rebroadcast" rights as the originating station.

b. In Oregon at least, the service fee for BMTD is \$50 a year. Cable and satellite cost upwards of \$35 to \$50 dollars a month. The monthly charge is over and above the capitol investment for system hardware.

Compared to the "for profit" delivery of signal, the BMTD fee is virtually a free service. We entertain that BMTD and other TD's are more fully meeting the commissions efforts to provide "free over the air TV" to the American people than any other form of video, other than originating commercial stations.

c. It must be stated [from our experience] That when the people use other services, they do not pay the Dist. This means a loss of revenue to the Dist. The remaining district patrons either must pay more for operating expenses or the district must cease operation.

At the present time (December 1995) BMTD does not know, on the basis of present revenue flow, whether we will be able to continue operation. However, if all the cable vendors were to pay for the signals they use that originate from Blue Mountain Translator District operation, it is anticipated that the day of insufficient revenue would be in the future. This of course, is dependent upon patron support.

DIGITAL TV

No matter how the change to digital TV is done, it is going to cost the public millions and millions of dollars. (See Att. 6)

The commission has requested comments on licensing ATV and NTSC Stations and Simulcast Requirements.

Both of these issues are of critical importance for TD's. In Oregon, whenever a property "can not receive the signal" they do not have to pay the requested service fee.

For people in rural areas, we are the only game in town for over the air tv signals that do not cost much more than any other source.

TD's for the most part, are limited on the ability to raise fees to the patrons who use the service. No matter how the FCC resolves the technical problems, TD's must be able to find the financial resources to make the change to digital equipment.

The following suggestions are presented for the Commission's consideration.

First. A block of frequencies be specifically allocated for TD use. The frequencies can be easily obtained by dedicating the frequencies already being used by the several TD's across the country to the TD's presently using them.

This would provide for the TD to increase service to its patrons because they could offer additional channels at a very low cost. Justification for an increase in service fees or charges to the patrons would then be based upon the more service you provide, the more the cost.

Advantages would be that for the TD service area, simulcast could easily take place because some of the presently allocated frequencies could be used for digital, and at the same time the present type of broadcast could be maintained on the other frequencies.

Second. The TD's should be allowed to continue to broadcast on present frequencies in the area they serve. TD's should not be required to change to digital unless requested by the patrons of the district. This would cut expense for the TD since all that would have to be purchased would be convertor equipment to put digital signals on the air, using existing equipment.

Third. If any of the TD frequencies are taken from the TD and used for digital by others, those securing the use of the frequencies should be required to pay the TD for the cost of converting their present equipment to digital and other attendant expenses.

Fourth. The length of application and construction period for TD's should be set in conjunction with the TD. Factors of determination for the period would basically depend on the TD's ability to raise the necessary financing for new equipment.

Fifth. TD markets are not a negotiable item for TD's. The market is determined by those who sell TV for profit. They determine where a TD is located. As pointed out previously, TD's are established to serve those whom no one else serves, except by more costly technology.

OTHER FACTORS IMPLIED IN THE "REQUEST FOR COMMENTS"

If the FCC is going to mandate digital TV as the "sole" type of TV for the United States a "Cost Benefit Analysis" should be made as to the cost the American people will have to pay. Total conversion

to Digital TV would obsolete all present TV receivers. See Att. 6 the White House recognizes this fact], Camcorders, VCR's, presently existing Video Tapes and all the other equipment in use by the public that is based on present technology.

Reading the request for comments it seems clear that the main thrust for digital TV is to create more commercial, for profit enterprises through use of the "freed up" spectrum. If such is the case, it would seem that the idea of "free service" to the public would in a sense be negated. This would be especially so, if TD's and Low Power TV stations are not allocated a segment of the spectrum for their dedicated use.

Today's newspaper [December 21, 1995] announced a sweeping overhaul of the present communications law. It must be pointed out that irrespective of changes in the law, the above outlined recommendations and discussion are still applicable. No other supply system can supply "over the air TV" in a more cost effective manner than "not for profit" Translator Districts, The originating commercial station(s) and Low Power TV stations.

SUMMARY AND CONCLUSIONS

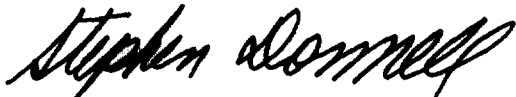
If the properties that can not receive originating stations signals are to be supplied with "over the air TV signals", present FCC rule must be changed. Outlined above are the basic minimum changes that must be made if TD's are to survive.

The FCC at the present time holds the future of "low cost over the air TV" in its hands. We anticipate that the FCC will, in it's wisdom, and stated objective, adopt rules that will provide for continuation of present Translator District operation and low power TV Stations. If the present concept of "free" TV is to survive, all efforts must be to maintain the present program originating commercial stations and their supporting national network(s).

ADDITIONAL COMMENTS AND ATTACHMENTS

Attachment 7. A Readers Digest article which directly speaks to Commissioner Ness's concerns about indecent or obscene programming.

Respectfully submitted,



Stephen Donnell
Consultant and Lobbyist
Blue Mountain Translator District

activities under subsection (1) of this section. [1989 c.972 §5; 1993 c.292 §3; 1993 c.500 §46]

354.525 Competition with telecommunications utilities prohibited; user fees; uses. (1) Oregon Ed-Net shall not compete with telecommunications utilities for transmission of noneducational communications.

(2) Any user fees established by the board shall be designed to cover the long run incremental costs of the network. [1989 c.972 §5a]

354.530 Board officers; quorum; meetings. (1) The board shall select one of its members as chairperson and another as vice-chairperson for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at least once every three months at a place, day and hour determined by the board. The board also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the board. [1989 c.972 §7]

354.535 Director; appointment vacancy; term; compensation; other board employees. (1) The Governor shall appoint a Director of Oregon Ed-Net to serve for a term of four years unless sooner removed by the Governor. In the event of a vacancy, the board shall recommend up to three candidates to the Governor for the position of director.

(2) The director shall receive such salary as may be fixed by the board. In addition to salary, subject to applicable law regulating travel and other expenses of state officers, the director shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.

(3) The board may delegate to the director any of the administrative authority, powers and duties granted to or imposed upon it by law.

(4) Subject to any applicable provisions of the Personnel Relations Law, the director shall appoint all subordinate officers and employees of the board, prescribe their duties and fix their compensation. [1989 c.972 §8; 1993 c.292 §4]

354.540 Rulemaking. In accordance with applicable provisions of ORS 183.310 to 183.550, the board may adopt rules necessary for the administration of ORS 354.505 to 354.550. [1989 c.972 §9]

354.545 Advisory and technical committees. (1) To aid and advise the board in the performance of the functions of the board, the board may establish such advisory

and technical committees as the board considers necessary. These committees may be continuing or temporary. The board shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The director is ex officio a member of each committee.

(2) Members of the committees are not entitled to compensation, but in the discretion of the board may be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to ORS 292.495.

(3) The membership of any advisory or technical committee established pursuant to this section shall be composed of individuals from the interests listed in ORS 354.515 (1). [1989 c.972 §10]

354.550 Oregon Ed-Net Fund. (1) The Oregon Ed-Net Fund is established in the State Treasury separate and distinct from the General Fund. Except for moneys otherwise designated by statute, all fees, assessments, federal apportionments or contributions and other moneys received by the board shall be paid into the State Treasury and credited to the fund. All moneys in the fund are appropriated continuously and shall be used by the board for purposes authorized by law.

(2) The board shall keep a record of all moneys deposited in the fund. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. [1989 c.972 §11]

TRANSLATOR DISTRICTS

354.605 Definitions for ORS 354.605 to 354.715. As used in ORS 354.605 to 354.715, unless the context requires otherwise:

(1) "County board" means the governing body of the county in which a district is principally situated.

(2) "District" means a translator district formed under ORS 354.605 to 354.715.

(3) "District board" means the governing board of a district.

(4) "Translator" means any UHF facility or Federal Communications Commission approved equipment owned by a district which serves the district by receiving, amplifying and transmitting signals broadcast by one or more television stations and public service signals which are allowed by Federal Communications Commission regulations intended for the general public but the term does not include VHF equipment for transmitting those signals. [1975 c.286 §1; 1979 c.108 §7]

354.615 Application of ORS 354.605 to 354.715. Except as provided in ORS 354.690 (5), nothing in ORS 354.605 to 354.715 shall apply to the construction or operation of community antenna systems or the redistribution of any signals, writings, images, sounds or intelligence of any nature by cable. [1975 c.286 §2 (2); 1979 c.108 §8; 1985 c.445 §3]

354.625 Creation of translator district; boundaries of district. (1) A translator district may be created as provided by ORS 354.605 to 354.715 for the construction, maintenance and operation of translator stations and the transmission and reception of television broadcast signals in areas so remote from regular transmission points that adequate television programming is not available to the public. The translator transmitting facilities shall conform to all FCC rules and regulations and shall be prohibited from interfering with all existing reception facilities, including but not limited to off-air antennas, CATV or MATV.

(2) The boundaries of any district organized under ORS 354.605 to 354.715 shall be determined pursuant to the provisions of ORS 198.720. [1975 c.286 §2 (1), (3); 1979 c.108 §9]

354.635 Contents of petition of formation. (1) In addition to matters named in ORS 198.750 the petition to form a translator district shall include:

(a) A brief description of the proposed system including the type of construction, location, number of translators to be erected and the number of television channels to be provided.

(b) The maximum service charge that may be charged by the district.

(2) The petition shall be addressed to and filed with the county board of the principal county and the proceeding conducted as provided in ORS 198.705 to 198.845. [1975 c.286 §3; 1979 c.108 §10]

354.645 When election on formation and first board to be held. The formation and changes of organization of a district shall take place in the manner provided in ORS 198.705 to 198.955. [1975 c.286 §4; 1979 c.108 §11]

354.650 Election laws applicable. (1) ORS chapter 255 governs the following:

(a) The nomination and election of district board members.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [1983 c.350 §216]

354.655 District board; membership; quorum; term; expenses. (1) The district

board shall consist of five members, each of whom shall be an elector of the district. The terms of office for the district board members first elected shall be determined by lot. The terms of two shall expire June 30 next following the first regular district election and the terms of three shall expire June 30 next following the second regular district election.

(2) As soon as possible after the election and the taking of the oath of office by the members, an organizational meeting shall be held and officers selected. A majority of the members shall constitute a quorum for the transaction of business.

(3) Except as provided in subsection (1) of this section, the term of office of each district board member is four years.

(4) The members of the district board shall serve without compensation, but shall be entitled to receive actual and necessary travel and other expenses incurred in the performance of their duties.

(5) The district board shall fill any vacancy on the board in the manner provided in ORS 198.320. [1975 c.286 §5; 1979 c.108 §12; 1983 c.83 §78; 1983 c.350 §214]

354.665 Board duties. A district board shall:

(1) Manage and conduct the affairs of the district.

(2) Establish and maintain funds and accounts for the district.

(3) Establish reasonable rules for the administration of the district. [1975 c.286 §6]

354.675 Powers of district. A translator district shall have full power to carry out the objectives of its formation and to that end may:

(1) Acquire by purchase, devise or gift or voluntary grant real and personal property or any interest therein including any rights of way or easements necessary or convenient for its purposes.

(2) Sue and be sued in its own name.

(3) Build, construct, improve, operate and maintain, subject to other applicable provisions of law, any translators necessary for the transmission of signals intended to be received by the general public.

(4) Perform all acts necessary to insure an efficient and equitable distribution of television programming within the district subject to the availability of funds in the approved budget.

(5) Make contracts of any lawful nature, employ personnel, including any technical or professional consultants necessary to carry out the provisions of ORS 354.605 to 354.715.

(6) Apply for, accept and hold any licenses or permits required under federal or state law. [1975 c.286 §7; 1979 c.108 §13]

354.680 Use of commercial matter; solicitation of financial support. (1) A district shall not delete television commercial matter in the signals it transmits, without written permission from the broadcasting television station, or in any manner finance its operation through the sale of commercial matter in its transmissions.

(2) A district may, without elector approval but with permission from the broadcasting television station, generate revenue in its transmissions through the acknowledgment or solicitation of financial support considered necessary for the continued operation of the translator. [1979 c.108 §3]

354.685 Methods of finance. When authorized by its electors, a district board may finance the acquisition, purchase, lease, operation or maintenance of the district by any of the following methods:

(1) Imposition of a service charge upon property within the district for use of the translator signals as provided in ORS 354.690. A district created before May 7, 1979, shall be considered to have received elector authorization for imposition of the service charge.

(2) Issuance of revenue bonds. The revenue bonds shall be issued in the same manner and form as are general obligation bonds under ORS 287.014 to 287.026 but they shall be payable both as to principal and interest from revenues only. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien on any of the taxable property within the limits of the district and shall be payable solely from such part of revenues of the district as remains after the payment of obligations having a priority and of all expenses of operation and maintenance of the district. All revenue bonds shall contain a provision that both the principal and interest are payable solely from the operating revenues of the district remaining after paying such obligations and expenses. [1975 c.286 §8; 1979 c.108 §14]

354.690 Liability for service charge; notice; exemption; collection of delinquent charges. (1) When a district broadcasts television signals through a translator on a regular basis and any property within the district receives those signals, the owner of the property receiving the signal shall be liable to the district for the service charges.

(2) When a district broadcasts television signals through a translator on a regular basis, if any person residing on or occupying property located in an excluded area inten-

tionally receives and uses those signals, the owner of that property is liable to the district for a service charge. The owner of the property shall be deemed to have contracted with the district for use of the translator signals.

(3) The district shall determine which property is receiving the signal, the amount of any service charge and the method of payment by property owners. The district may classify property within excluded areas and within the district according to the uses of district signals. For property within an excluded area, the district shall prepare a verified report which shall disclose that the property has been physically inspected and that there are reasonable grounds to believe that the property is intentionally receiving and using the signal.

(4) The district shall notify each owner of property it has determined is liable for a service charge at least 30 days prior to imposition of any service charge. The notice shall be by mail and shall include a written declaration which the owner may verify by signing and return to the district office stating that the owner is exempt from the service charge for one of the following reasons:

(a) The property already receives adequate regional television signals from another source and is not using district signals;

(b) The property is so situated as to preclude use of the signals; or

(c) A television is not used on the property and there are no plans to do so.

(5) If property within an excluded area or within the district is owned, rented or leased by a community antenna television company which carries a district's television signals by cable to subscribers because of Federal Communications Commission requirements, that property shall be exempt from any district service charge.

(6) A verified declaration returned to the district under subsection (4) of this section shall exempt the property in question and shall be valid for one year from its signing, unless the owner of the property informs the district of a change of circumstances which should subject the owner to a service charge.

(7) The district may determine which service charges are delinquent. Delinquent charges, plus interest, shall be collected by the district. **CHANGED MRS LEGISLATIVE SESSION.**

(8) As used in this section, "excluded area" means territory that is within a city or other area excluded from a district but surrounded by the territory of the district and that is not served by a community antenna system regulated by the Federal Communications Commission or not otherwise

MUST NOW BE PUT ON DELINQUENT TAX ROLL.

within a district. If the property is located in an area which enables the property to receive signals from more than one district, the property shall be liable for a service charge from one district only.

(9) The district board may enter into an agreement with the owner of property that is not within the district for the payment of service charges for use of the translator signals of the district when:

(a) The electors of the district, at an election called for that purpose, have authorized the district board to make such agreements; and

(b) The property is within a city that is surrounded by the district and is served by a community antenna system regulated by the Federal Communications Commission. [1979 c.108 §2; 1985 c.445 §1; 1991 c.459 §385a]

354.695 [1975 c.286 §9; repealed by 1979 c.108 §17]

354.700 Limit on broadcast of signals. A district shall broadcast only signals originating for public consumption or satellite transmission within 500 miles of the district and any United States Congressional proceedings. [1979 c.108 §4]

354.705 Referral of increase in minimum tax rate to voters. (1) Subject to limitations of the Oregon Constitution, the district board may refer to the electors of the district any proposal to increase the maximum service charge as provided in ORS

354.635 to maintain the financial stability of the district in an emergency. The proposal shall state that an emergency exists and specify with distinctness the facts and reasons constituting the emergency.

(2) The district board may refer to the electors of the district proposed additional or alternate means of financing allowed under ORS 354.685. [1975 c.286 §10; 1979 c.108 §15; 1983 c.350 §217]

354.715 Dissolution, liquidation and transfer proceedings. Dissolution, liquidation and transfer proceedings shall be conducted in the manner provided by ORS 198.920 to 198.955. [1975 c.286 §11]

PENALTIES

354.990 Penalties. Any property owner who knowingly makes any false verified declaration in order to obtain a service charge exemption under the provisions of ORS 354.690 is guilty of unsworn falsification and upon conviction shall be punished as provided in ORS 162.085. [1975 c.286 §12; 1979 c.108 §16; 1985 c.445 §2]

CHAPTERS 355 and 356

[Reserved for expansion]

BLUE MTN. TRANSLATOR DIST.
P. O. BOX 901
LA GRANDE, OR. 97850-0901

June 5, 1995

The Honorable Bob Packwood
259 Russell Senate Bldg.
Washington, D. C. 20510

Dear Senator Packwood:

We have written you in the past about the problems our Community owned Translator operators have with Cable TV using our services and not sharing cost of those services in Oregon because of a 1977 FCC ruling a copy of which is enclosed. We were able to survive because of the fact that in 1979 Oregon enacted Translator Special District laws that enabled us to hold benefitted property owners liable for those services. Cable exempted themselves from those statutes on the basis of Federal FCC rules based on the April 26, 1977 ruling. Once we passed the 1979 ORS statutes, they cabled our small rural towns in Union and Baker Counties and the Hood River area which reduced our number of subscribing homes so low it was impossible to recaptialize our operations every ten years. The electorate of Oregon voted in measure 5 in 1989 and the Or. Legislature canceled our right to hold property owners liable for our services. Hood River is now down to 500 paying subscribers and our District for Union and Baker Counties about 1200 homes. For all practical purposes we were out of the Translator TV business that serves the rural people and the Public Interest within our Cabled Cities.

We hired Mr. Joseph Benkert, FCC licensed Attorney from Denver, Colorado to assist us with getting State Statutes that were workable. Senator Gordon Smith of Pendleton and Ray Baum of La Grande introduced SB 1067 into the 1995 session of the legislature which passed without a single vote of desent and the Governor promises to sign the bill. This bill restores funding for our District from benefitted property owners in our Oregon Translator TV Districts.

Mr. Benkert also come up with proposed FCC rules so the Cables would be required to share cost of our signals if they use them. Enclosed are copies of his proposed amendments and the present FCC Cable rule where he feels it might fit.

Ralph Smiley, Oregon Farm Bureau lobbliest from Hood River, suggested we talk to Congressman Wes Cooley about our problem. Mr. Cooley was agreeable to going ahead with trying to get our problem addressed. He mentioned there is a Cable bill presently pending before the House and Senate and possibly the amendment Mr. Benkert proposed could be included in that Bill. Mr. Cooley mentioned that you were involved in this bill on the Senate side and we should contact your office also. Ralph Smiley suggested including Senator Mark Hatfield in this also.

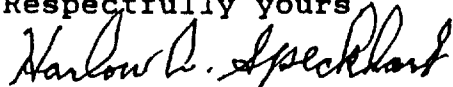
Enclosed are copies of materials we have sent to Congressman Cooley

ATT 2

The American Farm Bureau Federation has a Broadcast policy that is supportive of Television for the Rural people. Many of our rural people are life time members and supporters of the American Farm Bureau Federation. Also there are many Community owned Translator systems throughout the mountainous west and the midwest who are having the same problem. They too would be supportive of getting modification of the FCC rules that would be protective of Translator TV in the rural areas and our towns.

I recently spent a week in Quincy, Illinois where excessive rain and a tornado tore up a small local rural community. The Quincy TV stations were running Emergency Broadcast Messages warning their rural neighbors to take cover and it could happen in Oregon also. Part of the benefits of our FCC licensed Translator TV stations is the fact that we as rural people are included in our national and regional Emergency Broadcast System for natural and other disasters

Respectfully yours



Harlow A. Speckhart, Director Blue Mtn. Translator Dist.
63970 Mc Donald Lane
La Grande, Or. 97850

CC: The Honorable Mark Hatfield
The Honorable Wes Cooley



FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON

July 17, 1995

OFFICE OF
THE CHAIRMAN

The Honorable Bob Packwood
Chairman
Subcommittee on Communications
Committee on Commerce, Science
and Transportation
United States Senate
227 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter on behalf of your constituent, Mr. Harlow A. Speckhart, Director of the Blue Mountain Translator District. Mr. Speckhart is concerned that cable television system operators and cable subscribers do not contribute to the capital costs or maintenance of the Blue Mountain translator station. I appreciate the opportunity to respond.

Under Section 325 of the Communications Act of 1934, as amended by the Cable Television Consumer Protection and Competition Act of 1992, commercial television stations, including translator stations, generally may not be carried by cable television systems without the stations having granted a "retransmission consent." This requirement that the cable operator obtain the translator station's consent is intended to be a mechanism whereby stations may obtain appropriate compensation from the cable system operator. Unless the Blue Mountain Translator District translator station is a noncommercial station, this provision would appear to provide one means of addressing the concerns raised in Mr. Speckhart's correspondence. This provision does not apply to noncommercial stations, presumably because they are wholly or partially supported through taxpayer contributions and have an interest in the widest possible distribution of their signals. If the translator station in question is a noncommercial station, a change in this provision of the law would appear to be required to address Mr. Speckhart's concern.

It is not clear that there is anything either in Section 614 of the Act (47 U.S.C. Section 534) or in the Federal Communications Commission's April 27, 1977 letter to Mr. John R. Willner that would preclude a translator station under state law from collecting fees from cable subscribers. If there is a restriction on such levies under the applicable state law, it would seem preferable to obtain an amendment of the state law rather than to preempt such laws at the federal level. However, without access to and a complete knowledge of the state

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laws in question, their administration and intended objectives, it is difficult to provide any useful advice as to what changes in the law might be most useful.

Again, thank you for your letter. I hope you will continue to share your thoughts with me on this and other matters of concern.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reed B. Hundt', with a stylized, sweeping flourish extending to the right.

Reed B. Hundt
Chairman

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

APR 26 1977

IN REPLY REFER TO:

4130-GC

John S. Wilner, Esq.
Wilner & Scheiner
2021 L Street, N.W.
Washington, D.C. 20036

In re: American Television and Communications
Corporation d/b/a Cablevision
Island City, Oregon
CAC-7886 (OR0006)

La Grande, Oregon
CAC-7898 (OR0148)

Union, Oregon
CAC-7899 (OR0167)

Baker, Oregon
CAC-7900 (OR0174)

Dear Mr. Wilner:

This letter is to notify you that the above-referenced applications for certification have been granted by the Chief, Cable Television Bureau, pursuant to authority delegated by Section 0.238(t)(1) of the Commission's Rules. However, your attention is drawn to the following matter.

On February 17, 1977, Blue Mountain TV Association (BMTV), licensee of Television Broadcast Translator Station K63AH, filed comments opposing its carriage and claiming that in order to provide a high quality signal, substantial modification of its existing facilities is required. BMTV stated that under Oregon law, counties are authorized to establish Translator TV Taxing Districts (Districts), supported by an ad valorem tax to finance these modifications. Under this law, BMTV said there are exemptions for households receiving District translator signals from other sources, but there are no provisions for taxing cable systems using a District translator

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signal. BMTV claimed it is requesting that the Oregon statute be amended to require cable systems using a District signal to bear a portion of its costs, and requested that certification of ATC's proposed carriage be withheld until a plan is devised which would require all parties using a District facility to contribute to its costs and operating expenses.

In paragraph 112 of the Cable Television Report and Order, FCC 72-108, 36 FCC 2d 143, 186 (1972), the Commission stated that when an otherwise permissible signal is opposed, there is a substantial burden to prove that the proposed carriage is not only contrary to the public interest, but is inconsistent with the integration of the cable television service into the scheme of the national communications structure. No such showing has been presented by BMTV. Moreover, the Commission has consistently held that in order to substantiate imposition of a restriction on consistent signal carriage, a substantial showing is required to establish that the proposed carriage will adversely affect the station's revenues to an extent that it would impair its ability to serve the public. See Shenango Cable TV, Inc. (Sharon, Pennsylvania), FCC 76-952, 61 FCC 2d 731 (1976), Fresno Cable Television Company, Inc. (Fresno, California), FCC 75-1373, 57 FCC 2d 134 (1975), and Cable TV Service Co. (Effingham, Illinois), FCC 74-124, 45 FCC 2d 275 (1974).

Since no financial showing or any other significant data has been presented to establish a likelihood that BMTV would incur any significant adverse economic impact as a result of the proposed consistent signal carriage, the request to carry K68AH on the above-referenced systems will be granted, pursuant to authority delegated by Section 0.283(r)(1) of the Rules, and the opposition of Blue Mountain TV Association will be denied, pursuant to authority delegated by Section 0.283(r) of the Rules.

Sincerely,

/s/ JEROLD L. JACOBS
James R. Hobson, Chief
Cable Television Bureau

cc: Blue Mountain TV Association
La Grande, Oregon 97350

LAW OFFICES

John D. Pellegrin

CHARTERED

1140 CONNECTICUT AVENUE, N.W.

SUITE 606

WASHINGTON, D.C. 20036

TELEPHONE (202) 293-3831

FACSIMILE (202) 293-3836

April 18, 1994

Blue Mountain Translator District
P.O. Box 901
La Grande, Oregon 97850

Re: Billing to Premiere Cable

Gentlemen:

My client, Premiere Cable II, Ltd., has forwarded your March 10, 1994 letter to it, wherein you request money of "Premier Cable" (sic) as owner and operator of systems serving Imbler, Cove, North Powder, Haines and Sumpter for "use of the Blue Mountain Translator District signals."

This is to advise you that cable TV systems such as Premiere Cable have no obligation under federal law or regulation to compensate television broadcast translator stations for their carriage on cable systems, nor do such systems have any obligation with respect to retransmission consent vis-a-vis translators.

Consequently, I have instructed my client not to honor your request for payment.

Very truly yours

John D. Pellegrin
John D. Pellegrin

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CAPITAL DIARY

Rule would cost Gingrich

WASHINGTON — Speaker Newt Gingrich, R-Ga., could lose a bundle next year if the House approves a sharp curb on members' book-royalty income.

The change proposed by the ethics committee would force lawmakers to include book income under the limit on noncongressional earnings — currently \$20,040 a year. The new rule would take effect Jan. 1.

Gingrich's losses under the rule would depend on sales of his book, "To Renew America." But the speaker's earnings would fall far short — perhaps several million dollars — of the \$4.5 million advance he originally was to receive from publisher HarperCollins.

Under intense criticism, Gingrich relinquished that advance a year ago, substituting a \$1 token advance and royalties that include 15 percent of the price of hardback sales. The cover price of his book is \$24.

Government sues maker of child beds

The government sued a manufacturer Monday for its alleged failure to report dozens of consumer complaints about the safety of its toddler beds and guardrails, both of which later were recalled.

Cosco Inc. of Columbus, Ind. said the products were "unquestionably safe" and that it would await vindication in court.

The Consumer Product Safety Commission and the Justice Department filed two suits Monday in U.S. District Court in Indianapolis. They seek a \$2.5 million penalty, the maximum under the Consumer Product Safety Act, which requires companies to report immediately defects in their products that could pose a substantial risk of injury to the public.

The commission said Cosco knew of at least 25 instances of children getting stuck in openings in the frames of the model T22 and T23 beds but didn't report them until after a New York toddler strangled in December 1991 while trying to climb out of bed, feet first, through the footboard. Cosco made a full report on the hazards in March 1992, three months after the consumer protection agency requested it.

About 110,000 of the red or white tubular steel beds, some with guardrails, were sold nationwide from December 1990 through December 1991 as "transition beds" for 2- to 4-year-olds.

CAPITAL UPDATE

■ Seven religious charities will be forced to return nearly \$500,000 in donations from a convicted stock swindler — virtually all of it already spent — after losing a Supreme Court appeal Monday. Michael Douglas, a former Chicago salesman, pleaded guilty to fraud for creating corporations that sold limited partnerships and promised huge profits to investors in what court documents described as a Ponzi scheme. The appeal stemmed from the court-appointed receiver's efforts to get money back for defrauded investors from the charities to which Douglas had made donations before his legal problems began in 1989.

■ The White House wants to help Americans buy conversion devices so they can still watch television on older sets after broadcasters convert to a digital format. Digital TV sets are expected to debut in the United States by 1997 and to cost about \$10,000 each. The White House, as part of its budget plan, is considering creating a fund that would help people without digital TVs buy set-top converters, which would cost about \$100 each. The proposal is part of an administration recommendation to shorten broadcasters' transition to the digital world.

— From wire reports

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Western television...
depictions...
reference...
between...
More recently...
Magic in the Water...
PG-rated film about a sea serpent...
The picture is aimed at very young kids, yet for no discernible reason it contains off-color sex references and several uses of the "S" word.

Michael Medved is co-host of "Sneak Previews" on PBS, and chief film critic for the New York Post.

He is also author of the book "The Seven Deadly Sins of Hollywood: How the Old Time Movies Made Us What We Are."

His latest book is "The Seven Deadly Sins of Television: How the Old Time Shows Made Us What We Are."

He is also author of the book "The Seven Deadly Sins of the American Movie: How the Old Time Movies Made Us What We Are."

He is also author of the book "The Seven Deadly Sins of the American TV Show: How the Old Time Shows Made Us What We Are."

most people remain...
No wonder that...
reveal that an overwhelming...
majority of Americans feel...
out of touch with...
sonal values. Yet when the...
entertainment industry is challenged on...
these grounds, it denies the charges...
and justifies its excesses with three...
big lies:

1. The industry is not responsible for the...
2. The industry is not responsible for the...
3. The industry is not responsible for the...

How the entertainment industry justifies making offensive movies and TV shows

HOLLYWOOD'S 3 BIG LIES

BY MICHAEL MEDVED

Lie No. 1: "It's only entertainment—it doesn't influence anybody."

I'm going to let you in on a secret: even Hollywood doesn't believe this.

About a year ago I was on a panel with executives of three major film studios. After I criticized the irresponsible behavior of the movie industry, one panelist, furious, replied that while Hollywood is always blamed for the bad it does, it's never given credit for its positive impact. "You don't acknowledge that a movie like *Lethal Weapon III* saved thousands of lives," he said.

I couldn't recall a life-giving message in this blood-spattered thriller. So I asked what he meant.

"Well," he replied, "in that movie, right before the big chase scene, there was an intense, three-second close-up showing Mel Gibson and Danny Glover fastening their seat belts."

He was suggesting that people would immediately imitate what they saw for three seconds, but the rest of the movie's ultra-violent 118 minutes would have no influence at all. Isn't that contradiction illogical and absurd?

Jack Valenti, president of the Motion Picture Association of America, disagrees. During a debate with me, he said that when his two children were younger, they watched a great deal of violent TV. "They are now adults," Valenti said, "and their integrity is preserved, and their values are intact, and their standards of conduct, I think, are pretty good."

Everybody has heard some version of this argument, but it misses the point. Just because the media don't

influence *everybody* doesn't mean they don't influence *anybody*. When an ad runs on TV, no one expects it will sell that product to everyone. If the commercial influences just one out of a thousand people, then it's considered a success. In the same way, if TV and movies provoke just one in a thousand to behave in the irresponsible, destructive way that is too often glorified in the media, then those images have made a profound impact on society.

Of course, popular entertainment is not the only determinant of violent or promiscuous behavior. But evidence from more than 60 major university studies shows that prolonged exposure to violent images on television does lead to more hostile, violent and aggressive attitudes and behavior in real life.

Lie No. 2: "We just reflect reality. Don't blame us; blame society."

Paul Verhoeven, the director of *Robocop*, *Total Recall* and *Basic Instinct*, once defended his work by saying that as an artist, it is his job to hold a mirror up to nature. "Art is a reflection of the world. If the world is horrible, the reflection in the mirror is horrible." In other words, it isn't Hollywood's fault if there is ugliness in entertainment, because Hollywood is simply showing the truth about an ugly society.

Really? If this were true, then why do so few people witness murders in real life but everybody sees them on TV and in movies? The most violent ghetto isn't in South Central L.A. or Southeast

Washington, D.C.; it's on television.

About 350 characters appear each night on prime-time TV, but studies show an average of seven of these people are murdered every night. If this rate applied in reality, then in just 50 days everyone in the United States would be killed—and the last left could turn off the TV.

When it comes to depicting sexual behavior, there is a similar discontinuity. A Planned Parenthood survey found that every year on prime-time TV, there are 65,000 sexual references. Meanwhile, a Center for Media and Public Affairs study reports that seven of eight of the sexual encounters in TV dramas involve extramarital relations. Reality? A 1994 University of Chicago study showed that sexual satisfaction is greater among married people than among single people. And married people on average have sex more often than single people. This is not Hollywood's reality, where the only kind of sex that seems to be banned is intimacy between husband and wife.

Someone may ask, what difference does it make? After all, motion pictures never really mirrored the world as it is. Ginger Rogers and Fred Astaire danced on polished marble while the world was suffering from the Great Depression.

But back then the world on screen was more beautiful, heroic and optimistic than the real world. Today it's just the opposite. Most of us live in a much better world than the one depicted by the media. And while you are trying to lead a decent,

restrained life, TV promulgates the notion that everybody else is having a wild, debauched time and that you may be missing out. That is the true power of mass media—the power to redefine normal.

This is alarming because our children turn to the mass media as their main source of information about the adult world outside of the home. Due to constant repetition, the harmful behavior that kids see glamorized not only conveys powerful messages of what's accepted, but what is expected. We face the danger that the unreal world of movies and television will become, over time, a self-fulfilling prophecy.

U.C.L.A. sociologist James Q. Wilson has pointed out a curious fact: on city streets where broken windows have gone unrepaired, the crime rate immediately soars. Why? The broken windows make an announcement to the public: Here standards have broken down. Here no authority applies. Come and do what you like, without consequences.

Today, television and movies have become a gigantic broken window to the world. The portrayal of life without standards and misbehavior without consequences sends the message that chaos reigns. For the moment, our residual common sense and traditions are resisting. But how long can we hold out?

Lie No. 3: "We give the public what it wants. If people don't like it, they can always turn it off."

This argument is based on the common assumption that most

Americans have a deep-seated craving and need for violent sex in the movies. But recent box-office returns prove that this is not the case. The most successful films of recent months—*The Lion King*, *Forrest Gump*, *Apollo 13*—have shown restraint in their use of sex and violence, and appealed powerfully to more traditional American values.

In fact, for 20 years, movies rated G and PG—for family audiences—have done better on average than R-rated movies by a ratio of more than two to one. And yet the number of R-rated films has risen to over 60 percent of movies. Why? Because Hollywood hands out prestige and recognition based on the absurd notion that artistry is not the ability to inspire but the ability to shock.

The Lion King made more than twice the money of *Pulp Fiction*, but everyone in Hollywood knows—and praises—the director of *Pulp Fiction* (Quentin Tarantino) while no one could name the directors of *The Lion King* (Rob Minkoff and Roger Allers).

The last part of the lie, which says "If you don't like it, just shut it off," has the same logic as the statement "If you don't like the smog, stop breathing." You may not listen to the pop singer Madonna. You never chose to put Madonna in your mind, but you certainly know who she is and what she stands for. Popular culture is everywhere, like the air we breathe. That's why the messages of pop

culture are an environmental issue.

In *Indecent Proposal*, Demi Moore's character was offered a million dollars to spend one night with a billionaire played by Robert Redford. At a junior high school I visited, I heard children ask one another, "If they gave your mother a million dollars, would she?" They hadn't even seen the movie, but with the ads, the talk shows, the magazine covers and everything else, they still got its messages.

You can't escape the reach of popular culture. The sheer accumulation of this material has a tremendous impact on our lives.

That's why at a time when we are demanding that corporations bear responsibility for polluting the air and water, at a time when the outcry against the harm from smoking in public has had results, it is appropriate to demand that the entertainment conglomerates show greater accountability for polluting the cultural atmosphere that we all breathe.

We are at a historic moment in media history, one when people in the industry are finally beginning to listen and to change. Disturbing elements will never entirely disappear—nor should they—but we do seem to be getting more family-friendly alternatives, and these need to be supported. In the future, we may even have a chance to enjoy popular culture as rich, diverse and fundamentally decent as the people who live in this great country.

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